



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

Dr V Isorna

v

Frimley Health NHS Foundation  
Trust

## JUDGMENT

The claimant's application dated 29 October 2022 for reconsideration of the judgment which was (1) originally sent to the respondent and via incorrect email address to the claimant on 3 March 2022, and (2) sent to the right email address for the claimant on 27 October 2022, is refused.

## REASONS

- 1 Unfortunately, when the judgment dismissing the claimant's claims under rule 47 of the Employment Tribunals Rules of Procedure 2013 ("the 2013 Rules") was, on 3 March 2022, originally sent to the parties, it was sent to an incorrect email address for the claimant. I refer below to that judgment as "the original decision".
- 2 The claimant then sent an email to the tribunal (only) on 21 May 2022 the body of which was in these terms (only): "Please could I have an update with regard to my case". On 23 May 2022 a (named) member of the tribunal's staff responded in these terms: "Good Afternoon, The case has been closed and Judgement was sent to the parties on 3<sup>rd</sup> March 2022."
- 3 On the same day, but later, the claimant wrote in reply (to the tribunal only):  
"Dear Sir/Madam  
I was not sent any judgment.  
Please forward judgment and the options I know I have".
- 4 On 8 August 2022 the claimant then wrote to the tribunal (only) in these terms:

“Dear Sirs

Please could I have an update on the review I requested in June. I was only told case closed in May after requested update and was not sent a judgement.

I don't know on what information the decision was made, I sent two documents to ETT one week before the hearing in February and another slightly different document one day before, as I was not able to attend hearing on 18th February 2022.

I cannot see a reason why claim was struck out and I want it reinstated.”

- 5 On 13 October 2022, at 06:37, the claimant wrote again (also to the tribunal only):

“Hi

Please could I have an update with regards to the review I requested.

I want the claim re-instated.”

- 6 At 3:56pm on the same day, the claimant sent an email in these terms to the tribunal (only):

“Dear Sirs

I requested a reconsideration in May and have received no contact from the employment tribunal. I was only told the case was closed after I requested an update and I was not sent a judgement.

I don't know on what information the decision was made as I was not present at the hearing. I attach document sent 17th February to employment tribunal.

I cannot see a reason why claim was struck out and I want it reinstated.

Please confirm receipt of email.  
Please send me a copy of judgement”.

- 7 The document enclosed with that email had the file name “Response to strike out application 17 Feb 2022.pdf”.

- 8 The claimant was then on 27 October 2022 sent the original decision via her actual email address. That email was copied to the respondent's solicitor.

- 9 I can only (on behalf of His Majesty's Courts and Tribunals Service) apologise to the claimant for the failure to send the original decision to her on 3 March 2022 and for the failure, before 27 October 2022, to remedy that error.
- 10 On 29 October 2022 the claimant sent an email to the tribunal and the respondent's solicitor in the following terms:
- “Dear Sirs
- I have copied all parties into this email.
- As I said in previous email 13 October I want a re-consideration and I want the case re-instated. I attach document I sent to ETT on 17 May.
- Kind Regards
- Veronica Isorna”.
- 11 The document enclosed with that email that the claimant said she had sent on 17 May 2022 had the file name “Response to strike out application 17 Feb 2022.pdf”. That document was before me when, in the original decision, I dismissed the claim under rule 47 of the 2013 Rules.
- 12 What I did not say in the original decision was that the parties were informed on 1 February 2022 that the hearing of 18 February 2022 would be held by video and not in person. Thus, it would in all probability have been open to the claimant to apply for the hearing to be postponed, in the sense that she could in all probability in practice have joined the hearing by video and made that application. However, she did not do so but in any event, as I said in paragraph 8 of my reasons for the original decision, it appeared to me that the claimant was content to rely on written representations. Those written representations were in the document of which the claimant sent a further copy to the tribunal on 29 October 2022 as the basis for her application for a reconsideration of the original decision.
- 13 In those circumstances I could not see any justification for the revisiting of the original decision. I could not see any basis for concluding that it was in the interests of justice within the meaning of rule 70 of the 2013 Rules to reconsider that decision. In any event, in my view, paragraphs 9-11 of my reasons for that decision were still entirely apt. Accordingly I have concluded that the claimant's application for reconsideration has no reasonable prospect of success because (using the words of rule 72 of the 2013 Rules) “there is no reasonable prospect of the original decision being varied or revoked”.

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Employment Judge Hyams

Date: 24 November 2022

SENT TO THE PARTIES ON

1 December 2022

FOR THE TRIBUNAL OFFICE